IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

Bail Appl..No. 4495 of 2007()

CRIME NO.297/CR/SIII/2003 OF CBCID SIG III KOZHIKODE

: PETITIONER

P.S.NIZAR AHAMMED, PADINJATTIL (H),
AGED 47 YEARS, KANJIRAPPALLY P.O.,
KOTTAYAM.

BY ADV. SRI.V.S.AFSAL KHAN

RESPONDENTS:

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1. DETECTIVE INSPECTOR, CBCID SIG III,
D.I. V. KOZHIKODE.

2. THE STATE OF KERALA, REPRESENTED BY
THE DIRECTOR GENERAL OF PROSECUTION,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4495 of 2007

Dated this the 31st day of July, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. He faces allegations along with co-accused, inter alia, under Sections 471 and 468 I.P.C. The crux of the allegations is that relevant documents were forged to facilitate transportation of rubber sheet from Kerala to Delhi in lorries. The commercial taxes Vigilance Bangalore had reported the details of the crime to their counter parts in Kerala and it is thereafter that the F.I.R was registered. Raw rubber weighing about 30 tonnes have allegedly been transported to Karnataka from Kerala on the strength of forged documents resulting in great financial loss to the Government of Kerala. Crime has been registered. Petitioner is the 1st accused and altogether 18 persons have been arrayed as accused in this crime. The crux of the allegations against the petitioner is that forged seals etc. were furnished by the petitioner and he played a crucial role in the commission of the offence.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The counsel points out that the investigators had earlier occasions, a number of times, to question the petitioner and it is not necessary at this stage to subject the petitioner to the undeserved trauma of arrest and detention. The petitioner is willing to abide by any appropriate condition. The petitioner shall co-operate with the investigators. In these

circumstances, directions under Section 438 Cr.P.C may be issued in favour of the petitioner, it is submitted.

3. The learned Public Prosecutor opposes the application. Case diary has been placed before me for my perusal. The learned Public Prosecutor submits that custodial interrogation of the petitioner is absolutely necessary for an effective and satisfactory resolution of the crime. The petitioner, the available indications suggest, had played a crucial role in the commission of offence of forgery and using forged documents as genuine. In these circumstances, this is not a fit case where the petitioner deserves to be favoured with an order of anticipatory bail. This petition may, in these circumstances, be dismissed, submits the learned Public Prosecutor.

4. I have considered all the relevant inputs. I find merit in the opposition by the learned Public Prosecutor. It is true that the petitioner was available for interrogation by the Investigating Officers earlier but after his having been arrayed as an accused, I am satisfied that the prayer of the Investigator that custodial interrogation of the petitioner may be permitted is justified and worthy of acceptance. I find no circumstances in this case which would justify invocation of the discretion under Section 438 Cr.P.C.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case,

the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-